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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/712,777      | 11/12/2003  | Terrence W. Schmidt  | 1934-7-3            | 7411             |

7590 11/17/2005

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EXAMINER

VASUDEVA, AJAY

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                |  |
|------------------------------|-------------------------------|--------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/712,777 | Applicant(s)<br>SCHMIDT ET AL. |  |
|                              | Examiner<br>Ajay Vasudeva     | Art Unit<br>3617               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 9-17,26,27,29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,18-25 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The replacement drawings filed 4/16/2004 are not approved because:
  - figure 4 is inconsistent with the written description, as well as with the original fig. 4 filed 11/12/2003
  - figures 6A-6C constitute new matter
2. The drawings filed 4/16/2004 are objected to as failing to comply with 37 CFR 1.84(p)(5) because reference numerals in the drawings are inconsistent with the reference sign(s) mentioned in the description:
  - the drawings do not include the following reference sign(s) mentioned in the description:  
**105, 112, 113, 115, 150, 201, 551 etc.**
  - the drawings include the following reference character(s) not mentioned in the description:  
**200, 215, 305, 310, 350, 351, 352, 353, 400, 405, 410, 601, 602, 605 etc.**

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "**Replacement Sheet**" or "**New Sheet**" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The Specification is objected to because a description of figures 6A-6C has not been provided in the "Brief Description of the Drawings" section. No new matter should be entered.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 18, 19, 22, 23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 52-143691 A ('691).

JP ('691) shows a vessel with a frame [1], a bay [3] disposed in the frame and operable to receive a mission module [2] in the form of an air cushion boat, and an interface [4] operable to be coupled between the frame and the mission module. The interface is capable of supporting a person(s) in a manner that the person could carry fuel, water, electrical power or telecommunication equipment between the vessel and the module. Therefore, the interface is considered as operable to facilitate the exchange of fuel, water etc. between the frame and the module. The module is considered to be substantially self-contained with respect to special operation or logistics support system because ferrying of passengers between shore and the ship is considered to be such.

**Note #1:** The newly added limitation "**operable to provide mission specific functionality to the vessel while disposed in the bay**" is merely a functional limitation.

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Applicants may note that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). If the prior art discloses all claimed structural limitations and is capable of performing the recited function, it meets the requirements of the claim. However, for the sake of argument, even if the functional limitations were to be given weight in the apparatus claim, applicants' may note that the mission module -- while disposed in the bay -- would provide the vessel with at least the functionality of a mother/host vessel. Because JP ('691) discloses all claimed structural limitations and is capable of performing the recited function, it meets the requirements of the claim.

**Note #2:** The independent claims 1 and 18 are subcombination claims directed to a vessel, and do not positively recite a combination with a mission module. It is noted that the limitations "**operable to receive a mission module**" is merely an intended use limitation, and has been broadly interpreted to mean "*capable of receiving a mission module*". In the instant case, the vessel is considered as capable of receiving a mission module, and therefore meets the requirements of the claims. Further, any structural and/or functional characteristic attributable to the mission module is immaterial and carries no patentable weight because the claims do not claim a mission module.

6. Claims 1-8, 18, 19, 22, 23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 06-040379 A ('379).

JP ('379) shows a twin-hulled vessel with a frame [5], a bay [5] disposed in the frame and operable to receive a mission module [7] in the form of an air cushion boat, and an interface [8] operable to be coupled between the frame and the mission module. The interface is operable to facilitate the exchange of fuel, water, electrical power or telecommunication equipment

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between the vessel and the module (figure 1). The module is considered to be substantially self-contained with respect to special operation or logistics support system, such as ferrying of passengers between shore and the ship.

As described in ¶5 above, the newly added limitation “**operable to provide mission specific functionality to the vessel while disposed in the bay**” is merely a functional limitation (see MPEP 2114). Because JP ('379) discloses all claimed structural limitations and is capable of performing the recited function, it meets the requirements of the claim.

Additionally, see notes #1 and #2 above for a detailed explanation.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7, 18-25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bender et al. (US 5,277,117 A) in view of JP 52-143691 A ('691).

Bender et al. shows a mother vessel [36] having a mission module [10] in the form of an air cushion boat. The module comprises a substantially self-contained remote mine-hunting system, and is also operable as an anti-submarine system (col. 7, lines 42-43). Such operations are considered to be maritime intercept and surveillance/reconnaissance operations.

However, Bender et al. is silent on the mother vessel having a bay, or the mission module being accommodated in the bay of the mother vessel.

JP ('691) shows a mother vessel operable to receive an air cushion mission module in a bay of the vessel, as above. As previously explained in ¶5, the vessel is provided with an interface that is capable of facilitating an exchange of fuel, water, electrical power or telecommunication equipment between the vessel and the module.

It would have been obvious for one skilled in the art at the time of the invention to provide a bay and an interface in the vessel of Bender et al., as taught by JP ('691), for receiving the mission module. Having such a bay would have facilitated the parking, servicing, transport, and launching of the mission module from the vessel, thereby making its operations efficient. Further, when not in use, such arrangement would have protected the module from the elements to extend its operational life. The mission module -- while disposed in the bay -- would provide the vessel with at least the functionality of a mother/host vessel.

Additionally, see notes #1 and #2 above for a detailed explanation.

### ***Response to Arguments***

9. Applicant's arguments filed 8/29/2005 have been fully considered but they are not persuasive.

Applicants' Argument: Regarding the 102(b) rejections based on JP ('691) and JP ('379), applicants have argued that the mission module does not provide a mission specific functionality to the vessel while the module is disposed in the bay.

Examiner's Response: As described above, the newly added limitation "**operable to provide mission specific functionality to the vessel while disposed in the bay**" is merely a functional limitation. Applicants may note that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). Because JP ('691) and JP ('379) disclose all claimed structural limitations and are capable of performing the recited function, they meet the requirements of the claims. It is also noted that the mission module -- while disposed in the bay -- provides the vessel with at least the functionality of a mother/host vessel.

Re the independent claims 1 and 18, such are subcombination claims directed to a vessel and do not positively recite a combination with a mission module. It is noted that the limitations "**operable to receive a mission module**" is merely an intended use limitation, broadly interpreted to mean "capable of receiving a mission module". In the instant case, the vessel is considered as capable of receiving a mission module, and therefore meets the requirements of the claims. Further, any structural and/or functional characteristic attributable to the mission module is immaterial and carries no patentable weight because the claims do not claim a mission module.

Applicants' Argument: Regarding the 103(a) rejections based on Bender et al. ('117) in view of JP ('691), applicants have stated that "for the reasons discussed elsewhere in support of the patentability of claim1, Bender and the '691 patent, taken each alone or in combination, fail to teach the limitation of claim 1".

Examiner's Response: Applicants' arguments are vague and non-specific, and fail to establish as to why the 103(a) rejection is considered improper.



***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

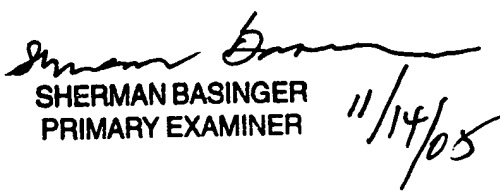
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
AV

Ajay Vasudeva  
Examiner  
Art Unit 3617  


SHERMAN BASINGER  
PRIMARY EXAMINER

11/14/05